

Gregg F. LoCascio, P.C. (*pro hac vice*)  
gregg.locascio@kirkland.com  
Sean M. McEldowney (S.B.N. 248368)  
sean.mceldowney@kirkland.com  
Christopher Nalevanko (*pro hac vice*)  
christopher.nalevanko@kirkland.com  
Brian N. Gross (*pro hac vice*)  
brian.gross@kirkland.com  
KIRKLAND & ELLIS LLP  
655 Fifteenth St., N.W.  
Washington, D.C. 20005  
Telephone: (202) 879-5000  
Facsimile: (202) 879-5200

Luke L. Dauchot (S.B.N. 229829)  
luke.dauchot@kirkland.com  
KIRKLAND & ELLIS LLP  
333 South Hope St.  
Los Angeles, CA 90071  
Telephone: (213) 680-8400  
Facsimile: (213) 680-8500

Attorneys for Defendant  
SIEMENS MEDICAL SOLUTIONS USA, INC.  
and SIEMENS AKTIENGESELLSCHAFT

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

NEUROGRAFIX, a California corporation;  
WASHINGTON RESEARCH  
FOUNDATION, a not-for-profit Washington  
corporation,

Plaintiffs,

vs.

SIEMENS MEDICAL SOLUTIONS USA,  
INC., a Delaware corporation; and SIEMENS  
AKTIENGESELLSCHAFT, a German  
corporation,

Defendants.

CASE NO. CV 10-1990 MRP(RZX)

**DECLARATION OF SEAN M.  
MCELDOWNEY IN SUPPORT  
OF SIEMENS' MEMORANDUM  
IN OPPOSITION TO  
PLAINTIFFS' MOTION FOR  
RECONSIDERATION OF THE  
COURT'S CLAIM  
CONSTRUCTION**

**The Hon. Mariana R. Pfaelzer  
United States District Court Judge**

**Hearing date: October 5, 2011  
Time: 11 a.m.  
Location: Courtroom 12**

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2 SIEMENS MEDICAL SOLUTIONS USA,  
INC.,

3 Counterclaim Plaintiff,

4 vs.

5 NEUROGRAFIX, and WASHINGTON  
6 RESEARCH FOUNDATION,

7 Counterclaim Defendants.  
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2 I, Sean M. McEldowney, hereby declare:

3 1. I am an attorney at the law firm of Kirkland & Ellis LLP, which  
4 represents Siemens Medical Solutions USA, Inc. and Siemens Aktiengesellschaft  
5 (collectively "Siemens") in the above-captioned matter.

6 2. Attached hereto as Exhibit OMR1 is a true and correct copy of excerpts  
7 from the *Markman* Hearing, dated March 24, 2011.

8 3. Attached hereto as Exhibit OMR2 is a true and correct copy of an email  
9 from Sean M. McEldowney to Andrew D. Weiss, dated September 6, 2011.

10 4. Attached hereto as Exhibit OMR3 is a true and correct copy of an email  
11 from Andrew D. Weiss to Sean M. McEldowney, dated September 7, 2011.

12 5. Attached hereto as Exhibit OMR4 is a true and correct copy of excerpts  
13 from the telephonic scheduling conference with the Court, dated May 26, 2011.

14 I hereby declare, under penalty of perjury, that the foregoing statements are true  
15 and correct to the best of my personal knowledge.  
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17  
18 Respectfully submitted,

19 Dated: September 12, 2011

20 /s/ Sean M. McEldowney  
Sean M. McEldowney  
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**CERTIFICATE OF SERVICE**

I hereby certify that on September 12, 2011, a copy of the foregoing DECLARATION OF SEAN M. McELDOWNEY IN SUPPORT OF SIEMENS' MEMORANDUM IN OPPOSITION TO PLAINTIFFS' MOTION FOR RECONSIDERATION OF THE COURT'S CLAIM CONSTRUCTION ORDER was served upon counsel of record for Plaintiffs registered with the Court's CM/ECF system.

/s/Sean M. McEldowney